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OFFICE OF PETITIONS

Applicant: Benson
Appl. No.: 09/991,211
Filing Date: November 21, 2001
Title: CRYSTALLIZATION AND STRUCTURE DETERMINATION OF
STAPHYLOCOCCUS AUREUS UDP-N-ACETYLENOI.PYRUVYLGLUCOSAMINE
REDUCTASE (S. AUREUS MURB)
Attorney Docket No.: 6241.N DV1
Pub. No.: US 2002/0156585 A1
Pub. Date: October 24, 2002

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on December 20, 2002.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains an error in claim 50 wherein " $a=b=c=178.9 \pm 20 \text{ \AA}$ " is misprinted as " $a=b=c=178.9 + 20 \text{ \AA}$ ", which is a material mistake.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." The instant request does not identify a material mistake in the publication made by the Office:

The instant request identifies a minor typographical error in dependent claim 50 wherein " $a=b=c=178.9 \pm 20 \text{ \AA}$ " is misprinted as " $a=b=c=178.9 + 20 \text{ \AA}$ ", which is not a material mistake because the technical disclosure and the claims are understandable, as the phrase is correctly spelled in the specification and boundaries are generally set by using the symbol " \pm " to indicate that amounts greater and less than the specified amount are within the range.

The typographical error identified by applicant is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹

The misspelling is a minor typographical error, which is clearly understandable from reading the specification and claims in which the term is used, as words are not read in a vacuum. The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

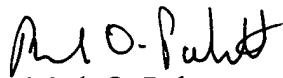
Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 1600 to await further examination in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).



Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy